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6 Attorneys for Plaintiff
7 United States of America

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)
11 Plaintiff,)
12 v.)
13 ONE 2002 MERCEDES BENZ C32,)
CA LICENSE NO. 5WFJ559,)
14 VIN WDBRF65JX2F226748,)
15 ITS TOOLS AND APPURTENANCES,)
16 Defendant.)

Civil No. **'08 CV 0035 DMS WMC**
COMPLAINT FOR
FORFEITURE

17 By way of complaint against the defendant, One 2005 Mercedes Benz C32 (hereinafter
18 "defendant vehicle"), the United States of America alleges:

19 1. This Court has jurisdiction over this action by virtue of the provisions of Title 28,
20 United States Code, Section 1355, and Title 21, United States Code, Section 881.

21 2. Venue is proper in this district pursuant to Title 28, United States Code, Section 1395,
22 because the defendant vehicle was found within this district.

23 3. In January 2007, Imperial County Narcotic Task Force officers received information from
24 a cooperating individual ("CI") that Pablo Gomez Avelar was involved in narcotic sales. Officers had
25 previously been investigating Avelar being involved in money laundering and narcotic sales. The CI
26 agreed to introduce an undercover agent to Avelar. In March 2007, agents set up two separate
27 undercover narcotic purchases from Avelar. On one occasion, the undercover agent purchased 1.7
28 grams of methamphetamine from Avelar, who had delivered the narcotics while driving the defendant

2007V00587:DMM:mia

1 vehicle. On the second occasion Avelar also used the defendant vehicle to deliver 2.8 grams of
2 methamphetamine to an undercover agent.

3 In August of 2007 the Imperial County grand jury handed down an indictment for Avelar,
4 charging him with narcotic sales and money laundering charges. On August 14, 2007, Avelar was
5 arrested pursuant to the warrant issued. During an interview with officers after being read his Miranda
6 rights, Avelar admitting to selling methamphetamine from the defendant vehicle approximately 200
7 times.

8 4. On and/or prior to August 14, 2007, the defendant vehicle was a thing of value furnished
9 or intended to be furnished in exchange for a controlled substance or listed chemical in violation of
10 Title 21 of the United States Code, Section 881.

11 5. Alternatively, on and/or prior to August 14, 2007, the defendant vehicle represented the
12 proceeds of or proceeds traceable to an exchange for a controlled substance or listed chemical in
13 violation of Title 21 of the United States Code, Section 881.

14 6. Alternatively, on and/or prior to August 14, 2007, the defendant vehicle was used and
15 was intended to be used to transport and/or to facilitate the transportation, and/or sale, and/or receipt,
16 and/or possession, and/or concealment of a controlled substance in violation of Title 21 of the
17 United States Code, Section 881(a)(4).

18 7. Because of the aforementioned acts or uses alleged herein, either singly or in
19 combination, the defendant vehicle is subject to forfeiture pursuant to Title 21, United States Code,
20 Section 881(a)(6) and (a)(4).

21 8. The defendant vehicle is presently stored within the jurisdiction of this Court.

22 9. The value of the defendant vehicle is approximately \$20,375.00.

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1 WHEREFORE, the United States prays that due process issue to enforce the forfeiture of the
2 defendant, and that due notice be given to all interested parties to appear and show cause why said
3 forfeiture should not be declared.

4 DATED: January 7, 2008

5 KAREN P. HEWITT
6 United States Attorney

7 
8 DAVID M. McNEES
9 Special Assistant U.S. Attorney


VERIFICATION

I, John Moreno, hereby state and declare as follows:

1. I am an officer with the Imperial County Narcotic Task Force
2. I have read the foregoing complaint and know its contents.
3. The information in the complaint was furnished by official Government sources. Based on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on January 3rd, 2008


JOHN MORENO, Task force Officer
Imperial County Narcotic Task Force

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

San Diego

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

SAUSA DAVID M. MCNEES
880 FRONT STREET, ROOM 6293
SAN DIEGO, CA 92101-8893
(619) 557-5979

DEFENDANTS

ONE 2002 MERCEDES BENZ C320M 11:44

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

FILED
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

08 CV 0035 DMS WMC

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

☒ 1 U.S. Government Plaintiff

☐ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government

☐ 4 Diversity (Indicate
Citizenship of Parties in Item
III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PT	DEF		PT	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

TITLE 21, UNITED STATES CODE, SECTION 881(a)(6) and (a)(4)

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 315 Airplane Product	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 320 Assault, Libel & Liability	<input type="checkbox"/> 368 Asbestos Personal Product Liability	<input checked="" type="checkbox"/> 625 Drug Related of Property 21 USC881	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce/ICC
<input type="checkbox"/> 150 Recovery of & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of of Veterans Benefits	<input type="checkbox"/> 355 Motor Vehicle Liability		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 360 Other Personal		<input type="checkbox"/> LABOR	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge
<input type="checkbox"/> Other Contract			<input type="checkbox"/> 710 Fair Labor Standards	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 892 Economic
<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> PRISONER PETITIONS	<input type="checkbox"/> 730 Labor/Mgmt. Disclosure Act	<input type="checkbox"/> FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Habeas Corpus	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 870 Taxes (U.S. or Defendant)	<input type="checkbox"/> 894 Energy Allocation
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 790 Other Labor	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 895 Freedom of
<input type="checkbox"/> 230 Rent Lease &	<input type="checkbox"/> 443	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 900 Appeal of Fee Under Equal Access to
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 950 Constitutionality of
<input type="checkbox"/> 245 Tort Product	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 990 Other Statutory
<input type="checkbox"/> 290 All Other Real		<input type="checkbox"/> 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY (See

JUDGE

Docket Number

DATE
1/7/08

SIGNATURE OF ATTORNEY OF RECORD

DAVID M. MCNEES, SAUSA

Maye L. S. SAUSA